

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

LELAND D BOOTHE,

Petitioner,

VS.

NATHANIEL QUARTERMAN,

Respondent.

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CIVIL ACTION NO. C-06-221

**ORDER**

On this day came on to be considered Petitioner Leland D. Boothe's motion to proceed *in forma pauperis* with respect to an appeal of the above-styled action to the United States Court of Appeals for the Fifth Circuit (D.E. 118). For the reasons set forth below, the Petitioner's motion is MOOT, as the Petitioner has already been granted leave to proceed *in forma pauperis* in this case (D.E. 9).

On April 17, 2006, Petitioner filed his application to proceed *in forma pauperis* in this action (D.E. 2). Petitioner's application was granted by Magistrate Judge Brian L. Owsley on May 26, 2006. (See D.E. 9, ¶ 2, "The Court finds that petitioner is indigent and grants petitioner's motion to proceed *in forma pauperis*.").<sup>1</sup>

Because Petitioner has already been granted leave to proceed *in forma pauperis* in the above-styled action (D.E. 9), Petitioner does not require a new order granting him leave to proceed *in forma pauperis* on his appeal. See Fed. R. App. P. 24(a)(3) (emphasis added) (unless a statute provides otherwise or the district court has certified that the appeal is not taken in good faith, "[a] party who was permitted to proceed *in forma pauperis* in the district-court action ...


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<sup>1</sup>Petitioner filed his "Notice of Appeal" on June 18, 2007 (D.E. 17).

*may proceed on appeal in forma pauperis without further authorization*”)<sup>2</sup>; see also Hookfin v. Terrell, 1994 WL 93292, at \*1 (5th Cir. March 11, 1994) (denying as “unnecessary” a petitioner’s motion to proceed *in forma pauperis* on appeal, because “the district court had already granted this status.”).

Accordingly, Petitioner’s May 12, 2008 motion to proceed *in forma pauperis* (D.E. 118) is MOOT, as the Petitioner seeks relief that has already been GRANTED by a previous court order.

SIGNED and ORDERED this 13th day of May, 2008.

  
Janis Graham Jack  
United States District Judge

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<sup>2</sup>This Court notes that it makes no finding as to whether Petitioner’s appeal (D.E. 17) is “not taken in good faith”. Fed. R. App. P. 24(a)(3)(A).